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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/088,650	03/20/2002	Katsuhiko Hiramatsu	L9289.02147	2769

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EXAMINER
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CHO, UN C

ART UNIT	PAPER NUMBER
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2687

DATE MAILED: 06/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/088,650

Applicant(s)

HIRAMATSU ET AL.

Examiner

Un C Cho

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 28 January 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) 1-5 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 6-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 January 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Priority***

1. Acknowledgment is made of applicant's claim for foreign priority based on an application filed in Japan on 7/28/2000. It is noted, however, that applicant has not filed a certified copy of the 2000-228571 application as required by 35 U.S.C. 119(b).

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 6 – 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith (US 5,642,355) in view of the admitted prior art.

Regarding claim 6, Smith discloses a base station apparatus comprising a timing deviation measurer that measures a reception timing deviation, said reception timing deviation being a time delay of an arrival time of a direct wave with respect to a slot start time, which is based on an internal clock (control portion of the base station measures the timing of an incoming signal with respect to a reference time, Smith, Col. 5, lines 11 – 31); and a channel assigner that refers to a table indicating a range of reception timing deviation assigned to each of a plurality of slots, determines, by reference to the table, an order in

which the slots are subjected to channel retrieval based on the measured reception timing deviation (Smith, Col. 6, line 48 through Col. 7, line 20).

However, Smith as applied above does not specifically disclose carrying out downlink channel assignment in the determined order in accordance with a downlink CIR and uplink channel assignment in accordance with an uplink CIR. In an analogous art, the admitted prior art discloses carrying out downlink channel assignment in the determined order in accordance with a downlink CIR and uplink channel assignment in accordance with an uplink CIR (the admitted prior art, Page 3, lines 2 – 13). Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the technique of the admitted prior art to the system of Smith in order to provide a reuse partitioning technique and since an optimum cell reuse factor is set a larger number of calls can be received thereby increasing the system capacity.

Regarding claim 7, Smith in view of the admitted prior art as applied to claim 6 above discloses wherein the channel assigner compares an uplink CIR and downlink CIR of a selected slot to a predetermined threshold value; assigns a call to the selected slot when the uplink CIR and downlink CIR of the selected slot are both greater than the predetermined threshold value; selects slots in sequence in a direction of less reception timing deviation when at least one of the uplink CIR and downlink CIR of the selected slot is less than the predetermined threshold value and in a direction of greater reception timing deviation when

there is no slot of less reception timing deviation; and carries out the channel retrieval using the slots (the admitted prior art, Page 3, lines 2 – 24).

Regarding claim 8, the claim is interpreted and rejected for the same reason as set forth in claim 6.

Regarding claim 9, the claim is interpreted and rejected for the same reason as set forth in claim 7.

### ***Response to Arguments***

4. Applicant's arguments with respect to claims 6 – 9 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Un C Cho whose telephone number is (571) 272-7919.

The examiner can normally be reached on M ~ F 8:00AM to 4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lester Kincaid can be reached on (571) 272-7922. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
**SONNY TRINH**  
**PRIMARY EXAMINER**

Un C Cho  
Examiner  
Art Unit 2687

6/6/05 uc